

## **REMARKS**

This paper is presented in response to the Office Action. By this paper, claims 1 and 29 are amended, and new claims 34 and 35 are added. Claims 6-13, 18, 21, 24 and 25 were cancelled in previous papers. Claims 1-5, 14-17, 19, 20, 22, 23 and 26-35 are now pending in view of the aforementioned new claims.

Reconsideration of the application is respectfully requested in view of the aforementioned amendments and the following remarks. For the convenience and reference of the Examiner, Applicants' remarks are presented in the order in which the corresponding issues were raised in the Office Action.

### **I. General Considerations**

Applicants respectfully note that the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the patentable distinctions between any cited references and the invention, example embodiments of which are set forth in the claims of this application. Rather, and in consideration of the fact that various factors make it impractical to enumerate all the patentable distinctions between the invention and the cited art, as well as the fact that the Applicants have broad discretion in terms of the identification and consideration of the base(s) upon which the claims distinguish over the cited references, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein is not intended, and should not be construed, to prejudice or foreclose contemporaneous or future consideration by the Applicants, in this case or any other, of: additional or alternative distinctions between the invention and the cited references; and/or, the merits of additional or alternative arguments.

With specific reference now to the claim amendments, Applicants note that while claims 1 and 29 have been amended herein, such amendments have been made in the interest of expediting the allowance of this case. Notwithstanding, Applicants, may, on further consideration, determine that claims of broader scope than those now presented are supported. Accordingly, Applicants hereby reserve the right to file one or more continuing applications with claims broader in scope than the claims now presented.

Consistent with the points set forth above, Applicants submit that neither the claim amendments set forth herein, nor any other claim amendments or statements advanced by the Applicants in this or any related case, constitute or should be construed as, an implicit or explicit surrender or disclaimer of claim scope with respect to the cited, or any other, references.

## **II. Rejection of Claims 1-5, 15, 19, and 29-33 under 35 U.S.C. § 102**

Applicants respectfully note that a claim is anticipated under 35 U.S.C. § 102(a), (b), or (e) only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Further, the identical invention must be shown in as complete detail as is contained in the claim. Finally, the elements must be arranged as required by the claim. *MPEP* § 2131.

The Examiner has rejected claims 1-5, 15, 19, and 29-33 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,758,611 to Levin et al. ("*Levin*"). Applicants submit that in light of the amendments set forth herein, the rejection has been overcome and should be withdrawn.

By this paper, Applicants have amended independent claim 1 to recite in part "...a mount configured to position the optical component within at least a portion of the port, the mount defining a hole that extends through the mount and that enables optical signals to pass from one portion of the optical device to another portion of the optical device, wherein a portion of the second facet of the optical component contacts the mount, and wherein the mount is configured to hold a portion of the first facet of the optical component against the housing ..." Support for this amendment to claim 1 can be found, for example, at least at Figures 4-6 and paragraph [049] of the application.

In contrast, the Examiner has not established that *Levin*, either alone or in combination with any other reference, teaches or suggests the aforementioned limitation in combination with the other limitations of claim 1.

By this paper, Applicants have amended independent claim 29 to recite in part "...a mount that contacts the second facet of the optical component so as to facilitate positioning of the optical component within the housing, the mount defining a hole that extends through the mount and that enables optical signals to pass from one portion of the optical device to another portion of the optical device..." Support for this amendment to claim 29 can be found, for example, at least at Figures 4-6 and paragraph [049] of the application. In contrast, the Examiner has not established that *Levin*, either alone or in combination with any other reference, teaches or suggests the aforementioned limitations in combination with the other limitations of claim 29.

In light of the foregoing, Applicants respectfully submit that the Examiner has not established that *Levin* anticipates either of claims 1 or 29, at least because the Examiner has not established that each and every element as set forth in claims 1 and 29 is found in *Levin*, because the Examiner has not established that the identical invention is shown in *Levin* in as complete detail as is contained in amended claims 1 and 29, and because the Examiner has not shown that *Levin* discloses the elements of claims 1 and 29 arranged as required by those claims.

Applicants thus respectfully submit that the rejection of claims 1 and 29, as well as the rejection of corresponding dependent claims 2-5, 15, 19, and 30-33, should be withdrawn.

### **III. Rejection of Claims 14, 16 and 17 under 35 U.S.C. § 103**

Applicants respectfully note at the outset that in order to establish a *prima facie* case of obviousness, it is the burden of the Examiner to demonstrate that three criteria are met: first, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; second, there must be a reasonable expectation of success; and third, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *MPEP* § 2143.

The Examiner has rejected claims 14, 16 and 17 under 35 U.S.C. § 103(a) as being obvious over *Levin*. Applicants respectfully disagree.

Claims 14, 16 and 17 depend from claim 1, which, as noted previously, has been amended herein. By virtue of their dependence from independent claim 1, dependent claims 14, 16 and 17 each require "... a mount configured to position the optical component within at least a portion of the port, the mount bounding a hole passing therethrough ..." As noted above however, the Examiner has not established that *Levin* discloses this limitation.

Accordingly, Applicants respectfully submit that the Examiner has not established a *prima facie* case of obviousness with respect to claims 14, 16 and 17, at least because the Examiner has not established that the reference, when modified in the purportedly obvious fashion, teaches or suggests all the limitations of the rejected claims. Applicants thus respectfully submit that the rejection of claims 14, 16 and 17 should accordingly be withdrawn.

### **IV. Allowable Subject Matter**

The Examiner's allowance of claims 20, 22, 23, 26 and 27 is appreciated. Applicants wish to thank the Examiner for the careful review and allowance of those claims.

Applicants submit the following comments concerning the Examiner's statements of reasons for the indication of allowable subject matter in the Office Action. In general, Applicants agree with the Examiner that the inventions to which claims 20, 22, 23, 26 and 27 are directed are patentable over the cited references, but respectfully disagree with the Examiner's statement of reasons for allowance as set forth in the Office Action.

Particularly, Applicant submits that it is improper to characterize a single limitation, or subset of limitations, as constituting the basis for allowance of a claim. Rather, the patentability of a claim is

properly determined with reference to the claim as a whole. Accordingly, Applicant does not concede that the reasons for allowable subject matter given by the Examiner are the only reasons that make, or would make, claims 20, 22, 23, 26 and 27 allowable and Applicant does not make any admission or concession concerning the Examiner's statements in the Office Action concerning the allowability of claims 20, 22, 23, 26 and 27 in view of the cited references.

**V. New Claims 34 and 35**

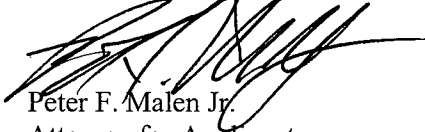
By this paper, Applicant has added new claims 34 and 35 that respectively depend from claims 1 and 29. Support for these new claims can be found, for example, at least at Figures 4-6 of the application. Applicant respectfully submits that new claims 34 and 35 are allowable for at least the reasons set forth above regarding claims 1 and 29.

**CONCLUSION**

In view of the remarks submitted herein, Applicant respectfully submits that each of the pending claims 1-5, 14-17, 19, 20, 22, 23 and 26-35 is in condition for allowance. Therefore, reconsideration of the rejections is requested and allowance of those claims is respectfully solicited. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate the same with the undersigned attorney.

Dated this 27th day of August 2007.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Peter F. Malen Jr.', is written over the typed name.

Peter F. Malen Jr.  
Attorney for Applicants  
Registration No. 45,576  
**Customer No. 022913**  
Telephone: (801) 533-9800

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